

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)	
)	MM Docket No. 91-221
Review of the Commission's)	
Regulations Governing)	
Television Broadcasting)	
)	
Television Satellite)	MM Docket No. 87-8
Stations Review of Policy)	
and Rules)	

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TO: The Commission

COMMENTS OF CENTENNIAL COMMUNICATIONS, INC.

Centennial Communications, Inc. (Centennial), by counsel, hereby submits its Comments in the above-referenced proceeding with reference to local ownership and Local Marketing Agreements.

Attached hereto is a Declaration of W. Howard Jernigan, Jr., President and Chief Operating Officer of Centennial, the licensee of television station WGNT, Channel 27, Portsmouth-Norfolk, Virginia, setting forth basic facts as to the Norfolk-Portsmouth-Newport News-Hampton Market (Designated Market Area No. 40).

I. Statement of Position

Centennial submits the following basic points:

1. The Grade B contour overlap prohibition should be maintained for VHF stations. If there is relaxation to a

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Grade A contour delineation, that should be limited to UHF stations. If there is to be a relaxation to permit joint ownership in the same market (i.e., where there is city grade contour overlap), that should be limited to UHF licensees who are not group owners (i.e., three or more stations) and only upon a showing of public interest benefit.

2. Local Marketing Agreements (LMA) where one station provides fifteen percent (15%) of a second station's programming should be treated as ownership and subject to the same joint ownership restrictions. There should be no grandfathering of LMAs, particularly not for LMAs contracted for or begun within ninety days or later of the Adoption Date of the subject notice. LMAs implemented prior to the ninety-day cutoff should be subject to a one-year sunset provision. The Commission should move quickly in this area.

3. The Commission should continue to recognize the competitive advantages of VHF stations and group owners and should not adopt rules or policies which enhance the market power of such stations to the detriment of single station UHF licensees. The market and programming distinctions between radio and television are real, substantial, and require differing standards as to duopoly and LMAs.

II. The Local Market Competitive Environment

In WGNT's market, there are seven commercial broadcast stations, three VHF and four UHF. The three VHF stations have

the three major network affiliations and are owned by group owners, i.e., WTKR-TV, Channel 3, CBS, The New York Times Co.,¹ WAVY-TV, NBC, Channel 10, LIN Television Corp., and WVEC-TV, Channel 13, ABC, A.H. Belo Corp. Broadcast Division. Of the four commercial UHF stations in the market, one is affiliated with Fox and is also licensed to a group owner (i.e., WTVZ, Channel 33, Sinclair Broadcast Group, Inc.); one is a religious station (WJCB, Channel 49, Tidewater Christian Communications Corp.); one is a non-locally owned station (WBVT) now under LMA to LIN (WAVY-TV), with LIN also holding an option to purchase the station; and one (WGNT) is a locally-owned independent.

Thus, under existing Commission Rules, WGNT must compete with three VHF stations who not only benefit from the inherent technical advantages of VHF, but also possess the three major, long-established networks, and the licensees are all major group owners. In addition, one of the UHF stations has the Fox affiliation and is also licensed to a group owner. Due to these factors, WGNT's competitive environment has been difficult. Now, the possible relaxation of the duopoly/LMA policies poses an even greater threat.

There is no public interest goal achieved by allowing any same market combination, whether by ownership or LMA, of a VHF station or group owner with any other station. The subject

¹Assignee in recent assignment application.

market offers a telling example of what occurs. LIN has entered into an LMA and Option to Purchase WVBT, Channel 43, owned by a non-local investor group. Interestingly enough, the LMA and Option to Purchase are dated December 14, 1994, one day prior to the Adoption Date of the Further Notice of Proposed Rulemaking in this proceeding. LIN thus has not only the NBC network but (via WVBT) the fledgling Warner Bros. network.

The LMA, which began in the first part of 1995, has already resulted in the following developments:

- LIN duplicates or repeats at least eighteen (18) hours of WAVY programming over WVBT, including WAVY News.
- NBC programming not cleared by LIN for WAVY has begun to be broadcast over WVBT. Previously, WGNT was able to carry NBC's Notre Dame Football, as WAVY preferred to carry Atlantic Coast Conference football. Now, LIN will place Notre Dame football (for which WGNT had developed loyal sponsorship and viewers) on WVBT, to WGNT's disadvantage.
- LIN has begun to broadcast over WVBT syndicated programming originally purchased for WAVY.

Thus, in the first few months of the WAVY/WVBT LMA, the outline of the competitive disadvantage to a single station UHF in WGNT's position has clearly emerged. LIN and the other group owners in the market already have concentrated market power in the bidding for programming by virtue of the number of stations each group owner controls. LIN and the other group owners in the market have the added advantage provided by the major networks, who not only provide desirable programming but also pay handsome station compensation fees. WGNT has affiliated with United Paramount, but that is only six hours per week, and there are no station compensation fees.

To permit WAVY (or any of the other VHF or group owners) to program a second station in the market disserves the public interest. The most noticeable aspect of the WAVY/WVBT LMA has been the duplication of programming. Such duplication is a waste of the WVBT frequency. Moreover, the narrowing of WGNT's access to programs resulting from the WAVY/WVBT combination impairs WGNT's ability to attract audience and to further develop its ability to serve the public.

III. The Commission Should Act Promptly To Deter Such Combinations

The Commission should act expeditiously to preclude LMAs by a VHF station or group owner. Television LMAs are now in a regulatory void, with no rules or clear precedent. That

should be remedied by quick Commission action. There is no basis for a VHF station or group owner to have a second television market outlet in the same market. In terms of competitive impact, the results are just as adverse whether it is an LMA or joint ownership, since there is no real world distinction. Joint ownership in the same market is, of course, precluded by the existing duopoly rules, and the consideration of any such changes may be time-consuming, particularly since the rule-making involves national ownership policies and other matters.

Clearing the air on LMAs should not await the conclusion of this overall proceeding. Instead, the Commission should take the following steps: (1) separate out and advance consideration of the LMA/local ownership questions; (2) announce a suspension of all LMAs not yet in operation; and (3) require all television licensees involved in LMAs to file such agreements with the Commission within thirty days.

When the decision is made restricting LMAs, any grandfathering should be limited to LMAs in operation at least ninety days prior to the Adoption Date of the subject Notice. Any grandfathering should be limited to a one-year sunset provision.

IV. Television Vis-a-Vis Radio

Although the Commission allows duopoly ownership and same market LMAs in radio, it does not follow that the same rules

and policies should apply to television, as there are these important distinctions:

- The number of broadcast outlets in each service is appreciably different. For example, in WGNT's market there are at least thirty commercial radio (AM and FM) stations, as contrasted with only seven commercial television stations.
- Major network affiliation, in terms of programming provided and compensation, is critical in television. In radio, networks are far less important, and are for most stations a limited source of programming.
- The nature of television programming, i.e., network, off-network, syndicated, and film packages, and its availability, cost, and the manner in which it is sold, are quite different from radio, with its emphasis upon format and air personalities.

These critical differences should be reflected in Commission Rules and policies which promote, not impair, competition and diversity of programming. Same market LMAs or ownership giving an entrenched VHF station group owner a second channel cannot be justified on any level of public

policy analysis. And if the result of High Definition Television is to provide each existing station with a second channel, then a same market duopoly/LMA would result in one entity controlling four television channels in the market.

There are compelling public interest factors warranting preservation of a balance of fair competition, and Centennial respectfully submits its foregoing comments to achieve that objective.

Respectfully submitted,

CENTENNIAL COMMUNICATIONS, INC.

By Morton L. Berfield
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Its Attorneys

Date: May 17, 1995

DECLARATION OF W. HOWARD JERNIGAN, JR.

W. Howard Jernigan, under penalty of the laws of perjury,
hereby declares as follows:

1. I am the President and Chief Operating Officer of Centennial Communications, Inc. ("Centennial"), the licensee of commercial television station WGNT, which operates on Channel 27 and is licensed to Portsmouth-Norfolk, Virginia.

2. The attached Statement of Facts was prepared under my direction and supervision and is true and correct to the best of my knowledge and belief.

W. Howard Jernigan Jr.
W. Howard Jernigan, Jr.

Date: 5-15-95

STATEMENT OF FACTS

I. THE TELEVISION BROADCAST MARKET

The Norfolk-Portsmouth-Newport News-Hampton, Virginia Designated Market Area (No. 40) contains the following commercial television broadcast stations:

	Call Sign	Channel	Network/Program Affiliation	Ownership
1.	WTKR-TV	3	CBS	The New York Times Co. (Non-local Group Owner) ¹
2.	WAVY-TV	10	NBC	LIN Television Corp. (Non-local Group Owner)
3.	WVEC-TV	13	ABC	A.H. Belo Corp. Broadcast Division (Non-local Group Owner)
4.	WGNT	27	Ind./United Paramount	Centennial Communications, Inc. (Local Area Residents). No other station ownership.
5.	WTVZ	33	Ind./Fox	Sinclair Broadcast Group, Inc. (Non-local Group Owner)
6.	WVBT	43	Ind./Warner Brothers	Beach 43 Corporation (Non-local Investor Group, LIN Has Local Marketing Agreement and Option to Purchase Station)
7.	WJCB	49	Ind./Religious	Tidewater Christian Communications Corp. (Local Religious Group)

¹Assignee in recent assignment application.

As reflected above, the three VHF stations with the well-established network affiliates are all owned by non-local group owners. A fourth non-local group owner, Sinclair Broadcast Group, Inc., owns one independent station (WTVZ), which has Fox programming. A non-local investor group owns WVBTV, which is being programmed by LIN pursuant to a Local Marketing Agreement (LMA), and LIN has an option to acquire WVBTV, if the Commission rules are changed to permit such ownership of two television stations in the same market.

The only two locally-owned independent stations are WGNT, which recently began broadcasting six hours per week of United Paramount programming, and WJCB, a religious station.

II. THE WAVY/WVBTV RELATIONSHIP

Beginning in early 1995, LIN, the licensee of WAVY, began programming WVBTV pursuant to an LMA dated December 14, 1994. LIN also simultaneously obtained an Option to acquire ownership of WVBTV, Commission Rules permitting.

The new LMA arrangement has produced these programming developments:

1. A substantial amount of programming broadcast by LIN over its VHF network-affiliate WAVY is being duplicated or repeated on WVBTV. For example, during the week of April 22-28, 1995, the following WAVY programming was also broadcast over WVBTV: Juvenile Justice (2.5 hours), Jenny Jones (5.0 hours), Montel Williams (5.0 hours), WAVY News (3 hours), Real

Stories of the Highway Patrol (2.5 hours), Bill Nye the Science Guy (.5 hours).

2. LIN has begun to broadcast over WVBT certain NBC network programming which it does not clear for WAVY, e.g. Leeza (5 hours per week). In addition, LIN, in accordance with its past procedure, will not clear Notre Dame Football from NBC in favor of Atlantic Coast Conference Football, but will now broadcast Notre Dame football over WVBT. In past seasons, when WAVY did not clear Notre Dame football, WGNT was able to broadcast the games, which attracted loyal sponsorship and viewers. LIN is also beginning to broadcast over WVBT syndicated programming originally purchased for WAVY, e.g., Cheers (2.5 hours per week).

III. THE IMPACT ON INDEPENDENT STATION WGNT

Although LIN's LMA for WVBT has just begun, WGNT has already experienced adverse impact. The most notable example is the loss of Notre Dame football. This is illustrative of the narrowing, if not the termination, of WGNT's opportunity to obtain NBC programming not cleared by LIN for broadcast over WAVY. Such programming will now be broadcast over WVBT.

WGNT will also be disadvantaged in the purchase of syndicated programming and film packages. WGNT is already at a disadvantage in bidding against group owners. All three VHF stations in the market are group owners, as is the UHF station with the Fox affiliation. Group owners have concentrated

negotiating and purchasing power which enables them to have greater selection and to pay less per program.

The four group owners also have the advantage of affiliation with the three long-established major networks and with Fox. WGNT has begun to broadcast six hours per week of programming from United Paramount, but this is in no way comparable to the major networks.

In this competitive environment, allowing one VHF group owner to program a second station (whether by LMA or ownership) in a market of seven commercial stations works to the detriment of a single station independent such as WGNT. The disadvantage also extends to personnel. Thus, WGNT has already lost its Local Sales Manager to WAVY/WVBT.

Increasing the burdens faced by WGNT also impairs the station's capacity to acquire and develop better programming and thus its ability, as a locally-owned independent station, to serve the public interest.

CERTIFICATE OF SERVICE

I, Louise M. Juarez, do hereby certify that on the 17th day of May 1995, a copy of the foregoing "Comments of Centennial Communications, Inc." was sent first-class mail, postage prepaid to the following:

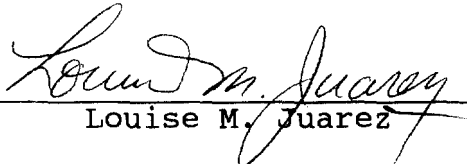
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Dated: May 17, 1995


Louise M. Juarez